

REMARKS

This amendment is being filed in response to the final Office Action dated July 30, 2003 in which the Examiner rejected the claims in the subject application on the Rios patent. Subsequently, on July 21, 2003 in a telephone interview with the Examiner, the Examiner brought to applicant's attention a publication entitled "Sci-Tec SRS Shows Investigation Tools," which was web-posted on April 30, 1999.

Accordingly, applicant respectfully requests that this amendment be entered and that the claims be reconsidered in view of the rewritten versions presented hereinabove and in view of the Rule 132 Declaration presented herewith from the inventor explaining the background of the Sci-Tec article.

1) The Sci-Tec Article

First, applicant wishes to thank the Examiner for bringing the Sci-Tec article to his attention so that he can respond concerning the circumstances around the development of his invention and present the enclosed Declaration.

Second, the applicant's Declaration makes clear that at the gathering of law enforcement officers reported in the Sci-Tec article that no mention nor disclosure of LEDs was made. Nothing in the printed article indicates that there were any LEDs involved; and, even if there had been an examination of the lights no one could possibly tell what the blue light source was. This is explained in paragraph I A of the Declaration.

Applicant also submits that even if the presence of LEDs could have been detected that such use was experimental in nature as the invention was still being

developed and was not a completed invention, reduced to practice. This is shown in paragraphs I, B-F, of the enclosed Declaration. Applicant continued to work on the invention ordering power sources and additional LEDs after the April 30, 1999 date.

Of particular importance is that applicant entered into a Secrecy Agreement with the Georgia Bureau of Investigation prior to turning the LED light source over to them. Thus, applicant had every reason to believe that there had been no disclosure of the LEDs prior to obtaining the Secrecy Agreement in order that the Georgia Bureau of Investigation test the light source under actual investigative conditions. The evaluation report from the Georgia Bureau of Investigation in September 1999 is attached showing their evaluation of the light source.

Accordingly, applicant respectfully submits that there was and had been no disclosure of LEDs being used as a light source to detect fingerprints on April 30, 1999 and even if such a disclosure had inadvertently taken place, it would have been part of an experimental use program as it has been shown that work was continuing before and after the April 30, 1999 date to completely develop the light source.

2) The Rios Reference

Looking now at the Rios reference, on which the Examiner had previously rejected the claims in this application, applicant has redrafted the claims to clearly indicate that the LEDs used in applicant's invention require no filter and no intensifier and that light emitted unfiltered from the LED will make the dye fluorescence so it can be detected by lenses or goggles worn by a user. This arrangement is not shown nor suggested in the Rios reference. The statements by the inventor and part II of his Declaration confirms that the LEDs used in his invention do not require filters and

inherently emit light in the useful wave length range. The diode itself emits light at the desired wavelengths.

Furthermore, as the inventor points out in his Declaration, Rios does not show or suggest any way in which a person could work hands-free with Rios' invention. In addition, to incorporate LEDs into the hand-held device of Rios requires an inventive step in itself as it is not clear where such LEDs might be located and where the eye piece of Rios would be constructed and located. It is certainly not obvious how the Rios device could accommodate and use an LED.

3) Conclusion

Clearly, Rios should be withdrawn as a reference because applicant's cap does not look at all like the handheld device of Rios. There is no suggestion or hint that Rios' telescope-like device could be mounted on a hat.

Applicant's device does not function like Rios' because Rios requires the use of hands, a filter, and an intensifier, none of which applicant's invention requires.

Therefore, applicant's device functions quite differently.

The results of the use of applicant's invention are different because with applicant's device a broad viewing area is possible which is not the case with applicant's narrow view telescope-like device.

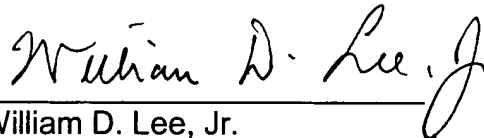
Accordingly, in function, method, and result applicant's invention is patentably distinct and different. The difference between applicant's invention and the prior art is, significant and non-obvious.

Applicant believes that there is no statutory bar running against his invention as it was not publicly disclosed more than one year before the filing date of the application so

that the public could in any way determine what the invention was; applicant was engaged in developing his invention at that time; and, it was not fully reduced to practice. Such disclosure, if it at all occurred, was incidental to experimental use shown by the attached Secrecy Agreement of the Georgia Bureau of Investigation.

Applicant submits that with the filing of the new claims and explanatory Declaration that his invention has been placed in condition for immediate allowance and a favorable action is earnestly solicited.

Respectfully submitted,

A handwritten signature in cursive script, reading "William D. Lee, Jr.", positioned above a horizontal line.

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